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IN THE MATTER OF THE LICENSE OF _____ :

: FINAL DECISION & ORDER

HARRY H. LIPPMAN, M.D., : LS0307232MED

RESPONDENT :

Division of Enforcement Case # 95 MED 423, 97 MED 201 and 98 MED 83

The parties to this action for the purposes of Wis. Stats. § 227.53 are:

Harry H. Lippman, M.D.
3805B Spring Street, #220
Racine, Wisconsin 53405

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935

The Wisconsin Medical Examining Board received a Stipulation submitted by the parties to the above-captioned matter. The Stipulation, a copy of which is attached hereto, was executed by Harry Lippman personally, and by his attorney, John J. Albert, and by Claudia Berry Miran, attorney for the Department of Regulation and Licensing, Division of Enforcement. Based upon the Stipulation of the parties, the Wisconsin Medical Examining Board makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Harry H. Lippman, M.D., 3805B Spring Street, #220, Racine, Wisconsin 53405, was born on January 4, 1942, and has been licensed to practice medicine and surgery in the state of Wisconsin since April 30, 1976, license #19892
2. Dr. Lippman specializes in neurosurgery.

Patient RF Matter

3. On April 6, 1992, Dr. Lippman misread the left/right designation and had Patient RF, a 54 year old male, prepped for a craniotomy on the wrong side. Dr. Lippman noticed it was the wrong side before entering the dura. He completed the surgery on the correct side.

Patient JS Matter

4. In January, 1995, Dr. Lippman saw Patient JS who had a history of lower back pain radiating down the right leg. A Lumbar Myelogram and lumbar spine CT post myelogram reveal a disc herniation at L3-4, a diffuse disc bulge at L4-5 and an anterior disc bulge at L5-S1. Dr. Lippman decided to do a Bilateral Hemilaminectomy, L3-4, with removal of large subcapsular herniated disk and foraminotomy over the right L4 nerve root.

5. The surgery was performed on January 27, 1995. In order to find the L3-4 level, Dr. Lippman opened up the patient and counted up from the sacrum. Dr. Lippman did not use intraoperative x-rays with needles to locate the level.

6. A follow-up MRI of the lumbar spine revealed that instead of a hemilaminotomy at the L3-4 level, the surgery had been done at the L4-5 level. Patient JS subsequently went to another physician to have the hemilaminotomy at the L3-4 level.

CONCLUSIONS OF LAW

1. The Medical Examining Board has jurisdiction in this matter pursuant to §448.02(3)(c), Stats.

2. The Medical Examining Board has authority to enter into this stipulated resolution without an evidentiary hearing pursuant to §227.44(5), Stats.

3. Dr. Lippman's conduct in having a patient prepped and beginning the surgery on the wrong side, as set forth in paragraph 17 constituted violations of §448.02(3), Stats. and Wis. Admin. Code § Med 10.2(2)(h).

4. Dr. Lippman's conduct in performing a hemilaminotomy at the wrong level, as set forth in Paragraphs 18 through 20, constituted violations of §448.02(3), Stats. and Wis. Admin. Code § Med 10.2(2)(h).

ORDER

NOW, THEREFORE, IT IS ORDERED that the Stipulation of the parties is approved.

IT IS FURTHER ORDERED that Harry Lippman, M.D., is hereby REPRIMANDED.

IT IS FURTHER ORDERED that 95 MED 423 is hereby closed for prosecutorial discretion.

IT IS FURTHER ORDERED, pursuant to the Stipulation of the parties, that Harry Lippman, M.D., will participate in and satisfactorily complete the following risk management program:

1. The risk management educational program will be developed by and administered through the University of Wisconsin School of Medicine, Continuing Education Department.

2. The program shall begin with an on-site assessment of the physician's office practices and procedures (and those of the hospital, in the discretion of the assessors), to include the office's layout, personnel issues, procedures, medical records, informed consent procedures, follow-up systems, drug and prescription policies, and such other relevant practices and procedures as the assessors may determine are appropriate for review, in their professional judgment and discretion. The goal of the review will be to assist Dr. Lippman in identifying objectively any policies and procedures that should be implemented to reduce risk to his patients. Dr. Lippman and his staff will cooperate fully with the assessors in this process, and Dr. Lippman will request that his colleagues cooperate fully in this process.

3. The assessment shall be commenced within 30 days of this Final Decision and Order.

4. A report of the assessment will be written by the assessors, including a proposed educational program which will include a review of the objectives, educational requirements, expected behavior changes for both physician and staff, timeline and budget. The University of Wisconsin School of Medicine, Continuing Medical Education Program will submit the proposed educational program to the Wisconsin Medical Examining Board for approval.

5. Dr. Lippman shall commence the educational program within 30 days of the Wisconsin Medical Examining Board's approval of the program, subject to the availability of faculty and staff to initiate the educational program.

6. Dr. Lippman shall comply with the timeline of the program and shall respond within 14 days to the written follow-up questionnaires to be sent to him approximately 3 and 6 months following the initial site visit. Dr. Lippman shall cooperate fully with a final site visit that will be conducted within 30 days of completion of the educational program.

7. Dr Lippman shall complete the educational program and the final site visit within 15 months of the commencement of the educational program.

8. Following the final site visit, the assessors will prepare a final assessment which sets forth Dr. Lippman's compliance with the objectives of the program, including evidence that he has implemented all recommended changes in office procedures and practices, and describes the extent that he has reduced the risks in his practice to a level consistent with the standards of practice of the profession.

9. Within 30 days of the conclusion of the educational program and the final site visit, if they have been satisfactorily completed by Dr. Lippman, the University of Wisconsin School of Medicine, Continuing Medical Education Program, will certify to the Wisconsin Medical Examining Board that the educational program and the final site visit have been completed and that he has met the objectives of the program.

10. Dr. Lippman shall pay the costs of the assessment, educational program and site visits, including the professional fees and expenses of the assessors and faculty, within 30 days of the dates on which statements for professional services and expenses are submitted to him.

IT IS FURTHER ORDERED that certifications, affidavits or other documents required to be filed with the Wisconsin Medical Examining Board be filed with:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
1400 East Washington Ave.
Madison, WI 53708-8935

All certifications, affidavits or other documents required to be filed with the Wisconsin Medical Examining Board will be deemed filed with the Wisconsin Medical Examining Board upon receipt by the Department Monitor.

IT IS FURTHER ORDERED that Harry Lippman, M.D. will appear before the Wisconsin Medical Examining Board, if an appearance is requested by the Board, at the conclusion of the risk management program to establish that he has complied with all of the terms of this Final Decision and Order.

IT IS FURTHER ORDERED that Harry Lippman is responsible for compliance with all of the terms and conditions of this Final Decision and Order. Dr. Lippman will promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order or of any failure of those administering the risk management program to timely fulfill his/her responsibilities under the terms of this Order.

IT IS FURTHER ORDERED that pursuant to § 448.02(4), Stats., if the Wisconsin Medical Examining Board determines that there is probable cause to believe that Harry Lippman, M.D. has violated the terms of this Final Decision and Order of the Wisconsin Medical Examining Board, the Board may order that the license of Dr. Lippman to practice medicine and surgery in the state of Wisconsin be summarily suspended pending investigation of the alleged violation.

The rights of a party aggrieved by this Final Decision and Order to petition the Wisconsin Medical Examining Board for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin, this 23rd day of July, 2003.

WISCONSIN MEDICAL EXAMINING BOARD

Alfred Franger

